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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/456,997	12/07/1999	TSUNEHIRO TSUKADA	35.C14095	7183
5514	7590	07/07/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			NGUYEN, THU HA T	
			ART UNIT	PAPER NUMBER
			2155	

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/456,997

Applicant(s)

TSUKADA, TSUNEHIRO

Examiner

Thu Ha T. Nguyen

Art Unit

2155

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 20 December 2004.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-10 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-10 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Claims 1-10 are presented for examination.
2. Claims 1, 4, 5, 8, 9, and 10 are amended.

**Response to Arguments**

3. Applicant's arguments filed December 20, 2004 have been fully considered but they are not persuasive because of the following reasons:
4. Applicant argues that Barrett does not teach or suggest a server transmitting the requested data to the terminal if generation of the requested data has completed, and if the data generation is in progress, predicting an end time for generation of requested data and transmitting the prediction to the terminal. In response to applicant's argument, examiner asserts that Barrett does teach a server transmitting the requested data to the terminal if generation of the requested data has completed, and if the data generation is in progress, predicting an end time for generation of requested data and transmitting the prediction to the terminal as shown in abstract, col. 4, lines 5-12, col. 5, lines 4-34, col. 6, lines 1-67, col. 7, lines 44-65 (when client/browser requests web page from Internet, the client (browser) receives/downloads and displays a web page from Internet (remote server), if the downloading of the presently displayed web page is completed. The remote server estimates the downloading time of the requested web page and displays as color indication to indicate the data is in progress of downloading at client device.

5. Applicant argues that Barrett does not teach or suggest reissuing an issued request for data when a predicted end time, which is received in response to the issued data request, is reached. In response to applicant's argument, examiner submits that Barrett does teach a re-issuing step of, in a case where the received data is the predicted end time for generation of the requested data, re-issuing the request for data loading to the server when the predicted end time is reached (abstract, col. 6, lines 1-67, col. 9, lines 8-24). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made that **Barrett** implicitly discloses a client requests for a web page/data, an estimate of download time indicia is provided to client along with user-selectable link so that the client know how long it will takes to down load a page and if client wishes to continue request a page then click/or select (i.e. re-issuing request) a user-selectable link equivalent to a re-issuing step disclosed in the applicant's specification. A person of ordinary skill in the art would have recognized that **Barrett** performs the same function in substantially the same way to reach substantially the same result.

6. Therefore, the examiner asserts that cited prior art teaches or suggests the subject matter broadly recited in independent claims 1, 4, 5, 8, 9, and 10. Claims 2-3, 6-7 are also rejected at least by virtue of their dependency on independent claims and by other reasons set forth in this office action [see rejection below].

7. Applicants still have failed to identify specific claim limitations that would define a patentable distinction over cited prior arts. Accordingly, rejections for claims 1-10 are rejected below.

### **Claim Rejections - 35 USC § 102**

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

((e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-2, 5-6, and 9 are rejected under 35 U.S.C. §102(e) as being anticipated by **Barrett et al.**, (hereinafter Barrett) U. S. Patent No. **5,908,467**.

10. As to claim 1, **Barrett** teaches the invention substantially as claimed, including a data processing method performed by a server for providing data to a terminal via a network, the method comprising:

a reception step of receiving a request for data loading from the terminal (abstract, col. 5, lines 4-10);  
a completion discrimination step of discriminating, in response to the request for data loading, whether a generation of requested data has completed or is in progress (col. 5, lines 11-34, col. 6, lines 19-25);

a first transmission step of transmitting to the terminal the requested data if the generation thereof has completed (abstract, col. 5, lines 4-34, col. 6, lines 47-57);

a prediction step of predicting an end time of the generation of the requested data if the generation thereof is in progress (abstract, col. 3, lines 60-col. 4, lines 4, col. 5, lines 35-67); and

a second transmission step of transmitting the predicted end time to the terminal during the generation of the requested data if the generation of the requested data is in progress (abstract, col. 4, lines 5-12, col. 6, lines 1-67, col. 7, lines 44-65).

11. As to claim 2, **Barrett** teaches the invention substantially as claimed, wherein said prediction step predicts the end time based on the size of the data to be generated (col. 5, lines 64-67).

12. As to claim 5, **Barrett** teaches the invention substantially as claimed, including a data processing apparatus for providing data to a terminal from a server via a network, the apparatus comprising:

reception means for receiving a request for data loading from the terminal (abstract, col. 5, lines 4-10);

completion discrimination means for discriminating, in response to the request for data loading, whether a generation of requested data has completed or is in progress (col. 5, lines 11-34, col. 6, lines 19-25);

first transmission means for transmitting to the terminal the requested data if the generation thereof has completed (abstract, col. 5, lines 4-34, col. 6, lines 47-57);

a prediction means for predicting an end time of the generation of the requested data if the generation thereof is in progress (abstract, col. 3, lines 60-col. 4, lines 4, col. 5, lines 35-67); and

second transmission means for transmitting the predicted end time to the terminal during the generation of the requested data if the generation of the requested data is in progress (abstract, col. 4, lines 5-12, col. 6, lines 1-67, col. 7, lines 44-65).

13. As to claim 9, **Barrett** teaches the invention substantially as claimed, including a computer readable storage medium storing a data processing program for controlling a server computer to perform data processing for providing data from the server to a terminal via a network, said program comprising:

a reception step of receiving a request for data loading from a terminal (abstract, col. 5, lines 4-10);

a completion discrimination step of discriminating, in response to the request for data loading, whether a generation of requested data has completed or is in progress (col. 5, lines 11-34, col. 6, lines 19-25);

a first transmission step of transmitting to the terminal the requested data if the generation thereof has completed (abstract, col. 5, lines 4-34, col. 6, lines 47-57);

a prediction step of predicting an end time of the generation of the requested data if the generation thereof is in progress (abstract, col. 3, lines 60-col. 4, lines 4, col. 5, lines 35-67); and

a second transmission step of transmitting the predicted end time to the terminal during the generation of the requested data if the generation of the requested data is in progress (abstract, col. 4, lines 5-12, col. 6, lines 1-67, col. 7, lines 44-65).

14. Claim 6 has similar limitations as claim 2; therefore, claim 6 is rejected under the same rationale.

#### **Claim Rejections - 35 USC §103**

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 4, 8, and 10 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over **Barrett et al.** (hereinafter Barrett) U.S. Patent No. **5,908,467**.

17. As to claim 4, **Barrett** teaches the invention substantially as claimed, including a data processing method performed by a terminal for receiving data from a server via a network, the method comprising:

an issuing step of issuing a request for data loading to the server (abstract, col. 5, lines 4-10);

a reception step of receiving from the server in response to the request either the requested data, or a predicted end time for generation of the requested data (col. 5, lines 4-34, col. 6, lines 19-25);

a display step of displaying the requested data or the predicted end time received from the server (abstract, col. 3, lines 60-col. 4, lines 4, col. 5, lines 35-67, col. 6, lines 1-57);

a data discriminating step of discriminating whether the received data is the requested data or is the predicted end time (col. 5, lines 11-34, col. 6, lines 19-25); and

a re-issuing step of, in a case where the received data is the predicted end time for generation of the requested data, re-issuing the request for data loading to the server when the predicted end time is reached (abstract, col. 6, lines 1-67, col. 9, lines 8-24). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made that **Barrett** implicitly discloses a client requests for a web page/data, an estimate of download time indicia is provided to client along with user-selectable link so that the client know how long it will takes to down load a page and if client wishes to continue request a page then click/or select (i.e. re-issuing request) a user-selectable link equivalent to a re-issuing step disclosed in the applicant's specification. A person of ordinary skill in the art would have recognized that **Barrett** performs the same function in substantially the same way to reach substantially the same result.

18. As to claim 8, **Barrett** teaches the invention substantially as claimed, including a data processing apparatus for receiving data at a terminal from a server via a network, the apparatus comprising:

issuing means for issuing a request for data loading to the server (abstract, col. 5, lines 4-10);

a reception means of receiving from the server in response to the request either the requested data, or a predicted end time for generation of the requested data (col. 5, lines 4-34, col. 6, lines 19-25)

display means for displaying the requested data or the predicted end time received from the server (abstract, col. 3, lines 60-col. 4, lines 4, col. 5, lines 35-67, col. 6, lines 1-57);

data discriminating means of discriminating whether the received data is the requested data or is the predicted end time (col. 5, lines 11-34, col. 6, lines 19-25); and

control means adapted to, in a case where the received data is the predicted end time for generation of the requested data, control said issuing means as to re-issue the request for data loading to the server when the predicted end time is reached (abstract, col. 6, lines 1-67, col. 9, lines 8-24). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made that **Barrett** implicitly discloses a client requests for a web page/data, an estimate of download time indicia is provided to client along with user-selectable link so that the client know how long it takes to down load a page and if client wishes to continue request a page then click/or select (i.e. re-issuing request) a user-selectable link equivalent to a re-issuing step

disclosed in the applicant's specification. A person of ordinary skill in the art would have recognized that **Barrett** performs the same function in substantially the same way to reach substantially the same result.

19. As to claim 10, **Barrett** teaches the invention substantially as claimed, including a computer readable storage medium storing a data processing program for controlling a computer to perform data processing for receiving data from a server via a network, said program comprising codes for causing the computer to perform the steps of:

an issuing step of issuing a request for data loading to the server (abstract, col. 5, lines 4-10);

a reception step of receiving from the server in response to the request either the requested data, or a predicted end time for generation of the requested data (col. 5, lines 4-34, col. 6, lines 19-25);

a display step of displaying the requested data or the predicted end time received from the server (abstract, col. 3, lines 60-col. 4, lines 4, col. 5, lines 35-67, col. 6, lines 1-57);

data discriminating step of discriminating whether the received data is the requested data or is the predicted end time (col. 5, lines 11-34, col. 6, lines 19-25); and

a re-issuing step of, in a case where the received data is the predicted end time for generation of the requested data, re-issuing the request for the data loading to the server when the predicted end time is reached (abstract, col. 6, lines 1-67, col. 9, lines

8-24). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made that **Barrett** implicitly discloses a client requests for a web page/data, an estimate of download time indicia is provided to client along with user-selectable link so that the client know how long it takes to down load a page and if client wishes to continue request a page then click/or select (i.e. re-issuing request) a user-selectable link equivalent to a re-issuing step disclosed in the applicant's specification. A person of ordinary skill in the art would have recognized that **Barrett** performs the same function in substantially the same way to reach substantially the same result.

20. Claims 3 and 7 are rejected under 35 U.S.C. §103 (a) as being unpatentable over **Barrett et al.** (hereinafter Barrett) U.S. Patent No. **5,908,467**, in view of **Sugiarto et al.** (hereinafter Sugiarto) U.S. Patent No. **6,278,449**.

21. As to claim 3, **Barrett** does not explicitly teaches the invention substantially as claimed, wherein said data are result of execution of a predetermined process, and said prediction step predicts the end time based on the time required for executing said predetermined process. However, **Sugiarto** teaches wherein said data are result of execution of a predetermined process, and said prediction step predicts the end time based on the time required for executing said predetermined process (figures 5-6). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of **Barrett** and **Sugiarto** to have the

step of predicting the end time based in the time required for executing the predetermined process because it would have an efficient data processing system that can provide the predicting downloading time prior transmitting data to terminal device.

22. Claim 7 has similar limitations as claim3; therefore, claim 7 is rejected under the same rationale.

### **Conclusion**

23. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Ha Nguyen, whose telephone number is (571)

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272-3989. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Najjar Saleh can be reached at (571) 272-4006.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thu Ha Nguyen

July 3, 2005



SALEH NAJJAR  
PRIMARY EXAMINER